



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,075	12/21/2001	Nisar Asmed Khan	2183-5223US	1102
24247	7590	04/16/2008		
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			EXAMINER DUNSTON, JENNIFER ANN	
			ART UNIT 1636	PAPER NUMBER
			NOTIFICATION DATE 04/16/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOMail@traskbritt.com

DETAILED ACTION

Receipt is acknowledged of an amendment, filed 12/4/2007, in which claims 2-3, 5, 9-10, 12, 16 and 20-24 were canceled, claims 1, 4, 6, 13-14 and 17-19 were amended, and claims 25-29 were newly added. Currently, claims 1, 4, 6-8, 11, 13-15, 17-19 and 25-29 are pending.

In the reply filed 10/28/2003, Applicant elected Group I without traverse. In the Office action mailed 6/4/2007, the restriction between Groups I and III was withdrawn, and claims 1-5 and 9-10 were examined. In the reply filed 12/4/2007, independent claim 1 was amended to read on the invention of non-elected Group II, as set forth on page 2 of the Office action mailed 10/3/2003. The amendment has resulted in new combinations of limitations, and upon consideration of the amendment filed 12/4/2007, the restriction between Groups I-IV as set forth on page 2 of the Office action mailed 10/3/2003 has been withdrawn.

The species election requirement presented below was necessitated by the amendment of claim 19, in the reply filed 12/4/2007, to depend from the method of claim 18, now rejoined.

Election/Restrictions

This application contains claims directed to the following patentably distinct species of methods of identifying a signaling molecule useful in modulating expression of a gene in a cell, where the signaling molecule is one sequence selected from the group recited in claim 19.

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species (one SEQ ID NO:) for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 18 are generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Dunston whose telephone number is 571-272-2916. The examiner can normally be reached on M-F, 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Woitach can be reached at 571-272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

Art Unit: 1636

like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jennifer Dunston, Ph.D.
Examiner
Art Unit 1636

/JD/

/Celine X Qian Ph.D./
Primary Examiner, Art Unit 1636